

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11268 of 2002

ORAL ORDER:

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This writ petition is filed seeking Certiorari to quash the order passed by the third respondent in O.A.No.51 of 2000 dated 16.4.2002 confirming the surcharge order passed by the first respondent in proceedings Rc.No.5065/98-B(S.1) dated 19.5.2000.

It appears, the petitioner was the President of the second respondent society during the period 1997-98. It seems on the basis of audit under Section 50 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'), surcharge proceedings under Section 60(1) of the Act were initiated against the petitioner. The petitioner submitted her explanation to the said proceedings. However, after considering the entire material, the first respondent-surcharge authority passed order dated 19.5.2000 holding the petitioner responsible for causing deficiency in the assets of the society to the tune of Rs.33,254-15 ps. Aggrieved by the same, petitioner carried the matter in appeal before the third respondent-Tribunal by way of O.A.No.51 of 2000. The Tribunal after considering the order passed by the surcharge authority, and on the basis of the material placed before it, though deleted the amounts under items 2 and 3, but confirmed Item No.1 to the extent of Rs.17,870-45 ps. being the interest on the cash balances. Aggrieved by the same, the present writ petition is filed.

There is no necessity of going into all the details. In the impugned surcharge proceedings, the first respondent had observed that the petitioner has retained heavy cash balances without any purpose and misutilised the funds of the society for her personal purposes violating the provisions of byelaws of the society and the interest calculated on the cash balances amounts to Rs.17,870-45 ps. Absolutely there is no basis for coming to such conclusion that the

petitioner has mis-utilised the said amount. Except hyperbole used against the petitioner, nothing is made out in the order passed by the surcharge authority to hold that the petitioner has caused deficiency to the assets of the society. It is not the case of the respondents that an amount of Rs.17,870-45 ps. is the deficiency. On the other hand, the order says that since there are heavy cash balances in the society's account without any purpose, the interest calculated on such cash balances retained by the petitioner amounts to Rs.17,870-45 ps., but neither any details were furnished nor any evidence is available on record.

I am of the opinion that the impugned order to the extent of Item No.1 i.e. Rs.17,870-45 ps. being the interest on the cash balance is set aside and the matter is remitted back to the first respondent-surcharge authority for conducting fresh enquiry into the matter insofar as first item only. The rest of the award passed by the third respondent-Tribunal is confirmed. The surcharge authority shall conduct fresh enquiry into the matter after giving notice and reasonable opportunity of being heard to the petitioner and pass appropriate orders as per law.

The writ petition is accordingly disposed of. No order as to costs.

C.V.RAMULU,
J

Date: 1.11.2006

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**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11268 of 2002

Date: 1st November, 2006

Between:

N.Varalakshmi

.. Petitioner

And

The Deputy Registrar of Cooperative
Societies, Bhimavaram, West Godavari district
and others.

.. Respondents